

1.94  
Ad4Sg  
cop. 2  
APR 2 - 1934

1.94  
Ad4Sg  
cop. 2

~~Return to  
Permanent Records  
South Bldg.~~

STATEMENT OF  
GENERAL POLICIES GOVERNING MARKETING  
AGREEMENTS AND CODES OF FAIR COMPETITION



I. Preliminary

1. Under the Agricultural Adjustment Act and, by Executive Order, under the National Industrial Recovery Act, the interests of agricultural producers, of industries processing or distributing raw agricultural commodities or products thereof, and of consumers of such commodities and products have been entrusted to the Department of Agriculture.

2. Under the Agricultural Adjustment Act marketing agreements may be used by the Department of Agriculture as one means to secure better farm prices and better conditions in industries processing and distributing agricultural commodities and products. By Executive Order, the responsibility for negotiating, approving for submission to the President, and administering codes of fair competition under the National Industrial Recovery Act for trades and industries engaged principally in the handling of milk or any product thereof, tobacco or any product thereof, or any food or foodstuff has been delegated to the Department of Agriculture, except that the determination and administration of provisions in such codes relating to hours of labor, rates of pay, and other conditions of employment rests with the National Recovery Administration subject to Presidential approval.

3. In formulating such agreements and codes, the officers of the Agricultural Adjustment Administration will, in order to secure uniformity of policy and procedure in the execution of the functions of the Agricultural

Adjustment Administration as they relate to agreements and codes, be guided by the policies set forth in this statement, by sections 401-409, inclusive, of the office regulations as revised and attached hereto, and by the skeleton models of marketing agreements and codes of fair competition. The models shall be followed as to order and grouping and, except for reasons satisfactory to the Administrator, as to the standard sections drafts of which are incorporated in the models.

4. For administrative and economic reasons an effort should be made (1) to avoid separate marketing agreements and codes of fair competition for small units in an industry, and (2) to bring the several units eventually under one marketing agreement and one code.

## II. Marketing Agreement Requirements

5. The first and most important mandate of the Agricultural Adjustment Administration is to restore agricultural purchasing power to parity. When a group presents a marketing agreement, the Administration will first determine what is existing price parity for the commodity, the Bureau of Agricultural Economics to furnish the adjusted figures. If the proposed agreement provides or tends to secure parity for the producer, the first mandate will have been discharged. If it appears necessary to curtail production or shipments or to fix resale prices in order to assure parity, the Administration will approve such provisions in marketing agreements, provided the consumer is adequately protected, and provided an unfair competitive advantage is not given to any group of producers, processors, or distributors.



6. Provisions fixing resale prices must be supported by adequate statistical and accounting reports furnished by the industry and submitted prior to a formal hearing on the agreement. Such reports shall be incorporated as a part of record at the formal hearing. This is particularly important because the second mandate of the Agricultural Adjustment Act is to protect the consumer's interest by ensuring that the farmer will receive no greater proportion of the consumer's dollar than during the 1909-1914 period. In case resale prices are fixed, exemptions in favor of public and bona fide private relief agencies shall be included. No resale price schedule or other provisions shall discriminate against cooperative associations of buyers.

7. In connection with fixed resale prices or their omission, "service charges", such as commissions, and handling, storage and financing fees, will be carefully scrutinized.

8. Agreements shall contain provisions setting up a supervisory body to aid in the functioning of the marketing agreement, to determine matters of discretion and disputes thereunder, and to cooperate in formulating a blanket agreement and code covering all industries in the chain of related industries in which the particular industry is a link. The provisions shall be so drawn that all elements of the industry, irrespective of their membership in trade associations, shall be adequately represented. The representation shall extend to producers if any group thereof is a party to the agreement. Where producers have a direct interest, but where no group of producers is a party to the agreement, provision should be made wherever practicable for an advisory committee representative of producers interests; and in all

cases where no group of producers is a party to the agreement, their interests, even if remote, shall be protected by the powers vested in the Secretary of Agriculture. In all cases, the general public interest shall be protected by the powers vested in the Secretary of Agriculture. The Secretary shall retain such supervision and control over the action of the supervisory body as he deems desirable, and may designate agents to keep him advised thereof and to perform such functions as he may require. The National Recovery Administrator shall retain such supervision and control over the acts of the supervisory body, relating to hours of labor, rates of pay, and other conditions of employment of labor as he deems desirable, and may designate agents to keep him advised thereof and to perform such functions as he may require.

9. If a sufficient percentage of the parties to an agreement desire licensing, or if licensing is considered necessary to enforce the provisions of the agreement, a license, substantially in accord with the provisions of the agreement, will be formulated and issued in connection with the agreement.

10. Other marketing agreement requirements may be ascertained from an examination of the model agreement.

### III. Requirements for Codes of Fair Competition

11. The mandates of the National Industrial Recovery Act are more numerous than those of the Agricultural Adjustment Act, and include among others the removal of obstructions to the free flow of commerce which diminish the amount thereof, the promotion of the organization of industry for the purpose of cooperative action among trade groups, the elimination of unfair competitive practices, the utilization of the present productive capacity of industries, the avoidance of undue restriction of production except as may be temporarily required, the increase of consumption of industrial and agricultural products through increased purchasing power, and the rehabilita-



tion of industry and the conservation of natural resources. These mandates all involve matters of vital importance to producers, processors, distributors and consumers of agricultural commodities and products.

12. Each code shall include the mandatory provisions of the National Industrial Recovery Act.

13. Codes may include provisions defining and prohibiting unfair trade practices. Only such practices shall be included as substantially interfere with the effectuation of the declared policy of either Act or prevent orderly and economical distribution, and as are of such importance that the Government may appropriately revoke a license with respect to any licensee engaging in such practices. Channels of distribution must be kept open, and the producer and consumer must be protected. No provisions will be included which tend to give unfair competitive advantages to any particular group of processors or distributors. Particular scrutiny will be given these provisions and the group submitting the code must offer complete data supporting its claims.

14. Codes shall include provisions which are particularly applicable to agricultural industries. For example, it is essential that all codes contain provisions supporting existing standards for the protection of producers, processors, distributors, or consumers, in effect under the Federal Food and Drugs Act and other Federal legislation regulating foodstuffs, together with such additional standards of similar character as the Secretary may find appropriate. Codes dealing with sea food, fish or game should support existing Federal conservation laws and policies.

15. Codes shall contain provisions setting up a supervisory body for the functioning of the code. The provisions shall be so drawn that all ele-

ments of the industry, irrespective of their membership in trade associations, shall be adequately represented. Where producers have a direct interest, provision shall be made wherever practicable for an advisory committee representative of producers' interest; and their interests, even if remote, shall be protected by powers vested in the Secretary of Agriculture. In all cases the general public interest shall be protected by powers vested in the Secretary of Agriculture. The Secretary shall retain such supervision and control over the action of the supervisory body as he deems desirable, and may designate agents to keep him advised thereof and to perform such functions as he may require. The National Recovery Administrator shall retain such supervision and control over the acts of the supervisory body relating to hours of labor, rates of pay, and other conditions of employment of labor as he deems desirable, and may designate agents to keep him advised thereof and to perform such functions as he may require.

16. Other code requirements may be ascertained from examination of the model code.

GEORGE N. PEEK  
ADMINISTRATOR

September 20, 1933.

#### IV. MARKETING AGREEMENT AND CODE PROCEDURE

401. Proposed marketing agreements under the Agricultural Adjustment Act and codes of fair competition under the National Industrial Recovery Act, required by those Acts or Executive Order pursuant to the National Industrial Recovery Act to be filed with the Agricultural Adjustment Administration, shall be filed by the interested group of producers, processors, and/or distributors with the Executive Assistant to the Administrator. The Executive Assistant shall transmit the proposed agreement or code to the Director of Processing and Marketing for assignment to the appropriate commodity section chief of his division. The Director of Processing and Marketing shall be responsible, in accordance with these regulations, for the formulation of all marketing agreements and codes of fair competition, and licenses in connection therewith, for submission to the Administrator for formal hearing and final approval.

402. (a) Upon assignment of a proposed marketing agreement or code of fair competition the commodity section chief shall notify the Analysis Committee and obtain from that Committee a preliminary written report setting forth (1) the respects in which the proposed agreement or code fails to conform with the model drafts therefor and with the Administration policies as to agreements or codes, (2) provisions which should be eliminated as being obviously opposed to producers' or consumers' interests, or which obviously give unfair advantage to any group of processors or distributors, and (3) the character of statistical and other data, to be furnished by the group presenting the agreement or code.



(b) Upon the receipt of such preliminary written report from the Analysis Committee and of the statistical and other data required thereby from the group presenting the agreement or code, but not prior thereto, the commodity section chief shall call an informal conference on the agreement or code, notify the group presenting the agreement or code to attend such conference, and request the Directors of Production and Finance, the General Counsel, the Counsel on Consumer Relations, and the representatives of the National Recovery Administration, to assign, whenever appropriate, personnel to attend the informal conference and to participate in the formulation of the agreement or code for submission to the Administrator for formal hearing and final approval, including any license in connection therewith. Except by reason of extraordinary circumstances, personnel so assigned shall not be relieved of such assignment during any stage of the formulation of the agreement or code.

403. When the Director of Processing and Marketing finds that any proposed agreement or code is ready for formal hearing and that the parties submitting it have filed application for formal hearing thereon in accordance with G. R. - A.A.A., Series 1, in case of agreements, and G. R. - A.A.A., Series 2, in case of codes, he shall transmit to the Administrator, through the Analysis Committee, a draft of the agreement or code as proposed for formal hearing. The draft thereof shall be accompanied by (1) the written recommendations of the division and administration officers who assigned personnel to participate in the formulation of the agreement or code, and (2) all necessary papers including a summary by the assigned personnel covering the economic, legal, labor, and consumer problems involved and a statement prepared by the assigned legal counsel, with the assistance of the



other assigned personnel, setting forth the nature of the evidence required to be developed at the formal hearing and an outline of the method of developing such evidence at such hearing.

404. For the purpose of expediting and facilitating the consideration of the agreement or code by the Administrator and the Secretary, the Analysis Committee, when it finds that the requirements of sections 402 and 403 have been complied with, shall transmit the proposed agreement or code to the Administrator for his action thereon with respect to the granting of a formal hearing, together with the accompanying papers and a written report to be prepared by the Committee (1) summarizing the action theretofore taken, (2) specifying any new questions of Administration policy, and (3) setting forth any other data necessary for such action. If the Administrator determines that a formal hearing shall be held, he will request the Secretary to call such hearing.

405. Due notice of a formal hearing shall be afforded interested parties in accordance with, and the hearing shall be governed by, G.R. - A.A.A. Series 1, in case of agreements and G. R. - A.A.A., Series 2 in case of codes. The legal counsel assigned as provided in section 402 (b) shall attend the hearing and develop the evidence as provided in section 403. The Administrator will return the proposed agreement or code and accompanying papers to the Director of Processing and Marketing, for reassignment to the commodity section chief concerned.

406. (a) At the conclusion of the hearing, the Chief Hearing Clerk shall make available to the commodity section chief and the personnel participating in the formulation of the agreement or code copies of the transcript of hearing.

(b) Following the formal hearing the Director of Processing and Marketing shall, if he finds it necessary, revise the proposed agreement or code and formulate any license to be issued in connection therewith.

(c) When the Director of Processing and Marketing finds the proposed agreement or code, or any license in connection therewith, is ready for final action, he shall transmit a draft thereof to the Administrator, through the Analysis Committee. The draft shall be accompanied by (1) the written recommendations of the divisions and administration officers who assigned personnel to participate in the formulation of the agreement or code, (2) a copy of the transcript of hearing, (3) a statement by the Director of Processing and Marketing setting forth the revisions made and the reasons therefor, (4) the written opinion of the General Counsel as to the legality of the proposed agreement, code or license and the extent to which the evidence in the transcript of record substantiates the reasonableness of each major provision, and (5) all necessary papers.

407. For the purpose of expediting and facilitating the consideration of the agreement or code by the Administrator and the Secretary, the Analysis Committee shall, if it finds that the requirements of section 406 have been complied with, transmit the proposed agreement or code to the Administrator for his action thereon with respect to final approval, together with the accompanying papers, and a statement to be prepared by the Committee (1) summarizing the action theretofore taken, (2) specifying any new questions of Administration policy involved in the revision of the proposed agreement or code or in the license in connection therewith, and (3) setting forth any other data necessary for such action. If the Administrator determines that the proposed agreement should be entered into or code approved or license issued, he will request the Secretary to approve the agreement or code or



issue the license.

408. When a final marketing agreement has been approved as provided in section 407, the General Counsel shall arrange for its submission to the appropriate groups for obtaining the necessary signatures. When such signatures have been obtained the agreement shall be submitted to the Secretary for execution by him. When a final code has been approved as provided in section 407, the Secretary will submit the code to the President for approval by him.

409. Any agreement, code or license finally entered into, approved or issued shall be prepared for printing by the Executive Assistant to the Administrator, as a document in the Marketing Agreement Series, the Code of Fair Competition Series, or License Series and its printing arranged for by him through the Office of the Director of Information of the Department.

410. The procedure for the modification or termination of any agreement, code or license shall conform, as nearly as may be, to the requirements of sections 401-408 inclusive.

